



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SETS PLEADING CYCLE FOR APPLICATION BY M2Z NETWORKS, INC. TO BE LICENSED IN THE 2155-2175 MHZ BAND

WT Docket No. 07-16

On January 31, 2007, in WT Docket No. 07-16, the Wireless Telecommunications Bureau (Bureau or WTB) accepted for filing an application by M2Z Networks, Inc. (M2Z) for a license in the 2155-2175 MHz band (Application),¹ pursuant to general statutory authority.² By this Public Notice, the Bureau establishes deadlines for pleadings on M2Z's application.

Background. In the *January Notice*, the Bureau stated that pursuant to Section 309(d) of the Communications Act of 1934, as amended, "any party in interest may file with the Commission a petition to deny any application...at any time prior to the day of the Commission grant thereof . . . or . . . formal designation . . . for hearing."³ On February 14, 2007, M2Z filed a Motion for Leave to File a Consolidated Opposition (Motion) to any and all petitions to deny its Application.⁴ M2Z contends that although the *January Notice* does not establish a pleading cycle for this proceeding, the Commission's rules provide that petitions to deny must be filed no later than March 2, 2007, *i.e.*, thirty days after the date of the public notice listing the application as accepted for filing.⁵ In this connection, M2Z states that parties may file such petitions at any time before the end of the 30-day filing window, which would

¹ See Wireless Telecommunications Bureau Announces that M2Z Networks, Inc.'s Application for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band Is Accepted for Filing, WT Docket No. 07-16, *Public Notice*, DA 07-492 (rel. Jan. 31, 2007) (*January Notice*). See also Application [of M2Z Networks, Inc.] for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band (filed May 5, 2006, as amended on Sept. 1, 2006, to incorporate by reference M2Z's separately filed forbearance petition). See, *e.g.*, *January Notice* at n.1.

² See *January Notice* at n.3 citing 47 U.S.C. § 309 and quoting 47 U.S.C. § 308(a) (stating that "the Commission may grant construction permits and station licenses . . . only upon written application therefore received by it") and (b) (requiring that Section 308(a) applications set forth "such facts as the Commission by regulation *may* prescribe," but not requiring the Commission to prescribe such regulations) (emphasis added).

³ *January Notice* at 1 quoting 47 U.S.C. § 309(d)(1).

⁴ See Letter from Erin L. Dozier, Esq., to Marlene Dortch, Secretary, FCC (transmitting Motion for Leave to File a Consolidated Opposition, filed Feb. 14, 2007).

⁵ See Motion at 2, n.4 citing 47 C.F.R. § 1.939(a)(2). According to M2Z, for example, if petitions to deny were filed on February 14, February 20, and March 2, and each petition were served via hand delivery, M2Z would be required to respond to these pleadings on three separate dates: February 26, March 2, and March 12. *Id.* at n.7.

trigger a series of staggered deadlines for the filing of oppositions to such petitions to deny.⁶ As such, the Motion seeks leave for M2Z to file, no earlier than ten days after the close of the 30-day window, a consolidated response to any initial pleadings on the merits of the Application which may be filed.⁷ Several petitions to deny M2Z's application were filed on March 2, 2007.⁸

Discussion. While the Bureau did not, through the *January Notice*, establish fixed date deadlines for the filing of petitions to deny, oppositions, and replies in WT Docket No. 07-16, we recognize the benefit of maintaining an efficient process for developing a record in this docket, as discussed in M2Z's Motion. Accordingly, in order to establish a more efficient and orderly process, we announce that petitions to deny M2Z's Application must be filed in this docket on or before **March 16, 2007**; oppositions to any such petitions to deny are due on **March 26, 2007**; and replies to such oppositions are due on **April 3, 2007**.⁹

We note that additional applications for a license in the 2155-2175 MHz band were filed on March 2, 2007, by several applicants.¹⁰ This Public Notice neither constitutes public notice of the acceptance for filing of those applications nor establishes a pleading cycle for them.

In view of the foregoing, the Motion for Leave to File Consolidated Opposition filed by M2Z Networks, Inc., on February 14, 2007, is GRANTED, to the extent indicated above and otherwise DENIED. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, and 0.331.

FOR FURTHER INFORMATION, CONTACT: Joel Taubenblatt of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418-2487, joel.taubenblatt@fcc.gov.

Action by the Chief, Wireless Telecommunications Bureau

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⁶ See Motion at 2, n.5 citing 47 C.F.R. §§ 1.45(b) & 1.939(f).

⁷ *Id.*

⁸ See, e.g., petitions to deny filed in WT Docket No. 07-16 by AT&T Inc.; CTIA – The Wireless Association; Motorola, Inc.; NextWave Broadband, Inc.; T-Mobile USA; Verizon Wireless; and the Wireless Communications Association International, Inc.

⁹ We note that, on February 16, 2007, the Bureau established a separate pleading cycle, in WT Docket No. 07-30, for a forbearance petition filed by M2Z under Section 10(c) of the Communications Act of 1934, as amended, in association with M2Z's application. See Pleading Cycle Established for Comments on Petition of M2Z Networks, Inc. for Forbearance Under 47 U.S.C. § 160(C) to Permit Acceptance and Grant of Its Application for a License to Provide Radio Service in the 2155-2175 MHz Band, WT Docket No. 07-30, *Public Notice*, DA 07-736 (rel. Feb. 16, 2007) (*February Notice*). As indicated in the *February Notice*, comments on M2Z's forbearance petition are due on March 19, 2007, and reply comments are due on April 3, 2007.

¹⁰ See, e.g., applications filed in WT Docket No. 07-16 by CommNet Wireless, LLC; McElroy Electronics Corp.; NetfreeUS, LLC; NextWave Broadband, Inc.; and Open Range Communications, Inc.